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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,378	07/27/2000	WAYNE CLIFTON AUGUSTUS WRIGHT	1182-24	9784

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EXAMINER

NGUYEN, XUAN LAN T

ART UNIT PAPER NUMBER

3683

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/581,378

Applicant(s)

WRIGHT ET AL.

Examiner

Lan Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 02 April 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 22, 23, 28, 30-32 and 34-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Gavin (USP 5,655,564).

Gavin shows a fitting 130 for providing a substantially fluid-tight seal between an opening in a chamber wall 102 and a pipe 156 passing through said opening, as in the present invention in figures 7-11, said fitting comprising: a tubular sleeve 146 passing through the opening with pipe 156 passing through said sleeve; a rigid, flat and planar flange 140 extending radially from said sleeve, a first surface 138 of the flange being configured to contact the chamber wall around substantially the whole circumference of the opening and over substantially the whole first surface of the flange; an energy means ... to heat the first surface of the flange in order to form a substantially fluid tight seal between the wall and the flange, column 6, lines 44-46; wherein said sleeve is extending from both sides of said flange, said flange can be positioned either outside or inside of said wall, see figures 7-11.

Re: claim 23, see column 6, line 23.

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Re: claim 28, Gavin shows the sleeve is of a circular cross section and the flange is radial.

Re: claims 30 and 31, Gavin shows sealing member 164 to be resilient and is providing a fluid tight connection between the sleeve and the pipe wherein sealing member 164 is mounting over tubular extension 160 of the tubular sleeve 146.

Re: claim 32, Gavin shows a method of forming a seal between an opening in a chamber wall and a pipe passing through said opening, as in the present invention, the method comprising the steps of: applying a fitting to the pipe, said fitting comprising: a tubular sleeve 146 passing through the opening with pipe 156 passing through said sleeve; a flange 140 extending radially from said sleeve, a first surface 138 of the flange being configured to contact the chamber wall around substantially the whole circumference of the opening and over substantially the whole first surface of the flange; an energy means ... to heat the first surface of the flange in order to form a substantially fluid tight seal between the wall and the flange, column 6, lines 44-46; wherein said sleeve is extending from both sides of said flange, said flange can be positioned either outside or inside of said wall, see figures 7-11; applying energy to the energy transfer means to cause the wall and the flange to fuse together, see column 6, line 23, applying a sealing member 164 to form a fluid tight connection between the sleeve and the pipe.

Re: claim 34, see column 6, line 23.

Re: claims 35 and 36, see column 6, line 30.

Re: claim 37, see Abstract, lines 1 and 2. Note that Gavin's system is of a subterranean wastewater transport system and would be capable of other subterranean fluid transport system such as fuel tanks.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 24-27, 29 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gavin (USP 5,655,564) in view of Evans.

Re: claims 24-27 and 29, Gavin's fitting as discussed in claim 22 rejection above is silent of an energy transfer means. Evans shows in figure 4 energy transfer means 24, 26, 21 for conducting an electric current; where 21 is the heating wire being embedded in the first surface of flange 16; and 24, 26 are the terminals. Evans further teaches in the Abstract the material for use as a heat activated adhesive to be a thermoplastic material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Evans teaching of the use of a thermoplastic material being activated by a current to provide a tight adhesion between the flange and the wall of Gavin's system; since heat activated thermoplastic materials are well known to provide uniform and effective fluid tight sealing means as taught by Evans.

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Re: claim 33, Gavin's method as discussed in claim 32 rejection above is silent of an energy transfer means. Evans shows in figure 4 energy transfer means 24, 26, 21 for conducting an electric current; where 21 is the heating wire being embedded in the first surface of flange 16; and 24, 26 are the terminals. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated Evans teaching of the use of a current to heat up the first surface of the flange in order to activate a thermoplastic material providing a tight adhesion between the flange and the wall of Gavin's system; since using electric current to heat activate a thermoplastic material is a well known method to provide uniform and effective fluid tight sealing means as taught by Evans.

5. Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gavin (USP 5,655,564) in view of the instant application's description on page 7, lines 7-9.

Gavin shows a fitting 130 for providing a substantially fluid-tight seal between an opening in a chamber wall 102 and a pipe 156 passing through said opening, as in the present invention in figures 7-11, said fitting comprising: a tubular sleeve 146 passing through the opening with pipe 156 passing through said sleeve; a rigid, flat and planar flange 140 extending radially from said sleeve, a first surface 138 of the flange being configured to contact the chamber wall around substantially the whole circumference of the opening and over substantially the whole first surface of the flange; an energy means ... to heat the first surface of the flange in order to form a substantially fluid tight seal between the wall and the flange, column 6, lines 44-46; wherein said sleeve is

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extending from both sides of said flange, said flange can be positioned either outside or inside of said wall, see figures 7-11. Gavin lacks the environments of the fuel tank and a sump chamber for the fitting to be installed in. In the instant application, page 7, lines 7-9, manhole, chambers and tanks are considered to be art equivalent of tanks in general. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used Gavin's fitting in different art recognized equal environments to provide fluid tight sealing between an opening in the tank and a pipe since the fitting would perform the same way and accomplish the same task of providing a fluid tight seal in these art recognized equal environments.

### ***Response to Arguments***

6. Applicant's arguments filed 8/14/03 have been fully considered but they are not persuasive. Applicant argues that Gavin's fitting is flexible while the instant invention is rigid. In reviewing the specification to define Applicant's definition of rigid, the specification fails to do so. A definition of rigid is not provided in the specification. Hence, the Examiner maintains that Gavin's fitting is also rigid since it can hold its own shape. Applicant further argues that the energy transfer means in Gavin is not on the flat surface of the flange. Figure 7 of Gavin clearly shows that the energy transfer means is on the flange 140, which is rigid, flat and planar. The rejection is still deemed proper and is repeated above.

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**Conclusion**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

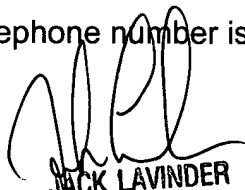
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347. The examiner can normally be reached on M-F, 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

XLN

XLN  
October 7, 2003

  
JACK LAVINDER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600